



**PRIOR WRITTEN NOTICE:
THE WHY, WHEN AND HOW
OF NOTICES OF ACTION**

May 15, 2013

Missouri Department
of Elementary and Secondary Education

Webinar Team

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Learning Objectives

1. Understand the legal definition of Prior Written Notice
2. Understand the required content in all Prior Written Notices
3. Know when Prior Written Notice requirements are triggered
4. Know when Prior Written Notice is NOT required

Learning Objectives (continued)

5. Know the timelines associated with providing Prior Written Notice
6. Understand the difference between a signature for consent and a signature for a waiver of the 10 day timeline
7. Know how to word common Notices of Action

Prior Written Notice Defined by IDEA



34 CFR 300.503

- Written notice must be given to parents a reasonable amount of time before the responsible public agency:
 - Initiates or changes:
 - the identification, evaluation, or educational placement of the student
 - the provision of a free appropriate public education of the student
 - Refuses to initiate or change:
 - the identification, evaluation, or educational placement of the student
 - the provision of a free appropriate public education of the student

What is a “reasonable” amount of time?



NOA must be provided no less than **10 days** prior to the proposed action

Exception #1

Disciplinary change of placement need not follow the 10-day guideline due to the stay-put provision



Exception #2

If the parent has agreed to a change through the amendment process and a signature has not been obtained, the school district should document the date the agreement was obtained and implement the change immediately.

Content of Prior Written Notice



The written notice sent to parents by the responsible public agency must contain the following:

- A. a description of the action proposed or refused by the agency;

Date Notice Provided: _____

MO STATE SAMPLE

Method of Provision: _____
 Personally Presented
 Mailed

Student's Name _____
Parent/Guardian _____

<Insert District Information>
NOTICE OF ACTION
In accordance with Part B of the IDEA

A →

Prior Written Notice must be given before our district takes certain actions.

The following is to describe the action(s) Proposed or Refused by our district.

<input type="checkbox"/> Initial evaluation	<input type="checkbox"/> Initial placement
<input type="checkbox"/> Reevaluation	<input type="checkbox"/> Change of placement
<input type="checkbox"/> Ineligibility for services	<input type="checkbox"/> Change of services
<input type="checkbox"/> Change in Eligibility	<input type="checkbox"/> Graduation with regular diploma
<input type="checkbox"/> Initial services	<input type="checkbox"/> Other: (Specify) _____

Explanation of Action: (The reason(s) for the proposal or refusal):

Options Considered and Why Rejected:

- Option(s) that was/were considered by the IEP team:
- The reason(s) why each option was rejected:

Basis for the Action: (A listing or attached description of each evaluation procedure, assessment, record, or report used as a basis for the action):

Other Factors Relevant to the Action:

The written notice sent to parents by the responsible public agency must contain the following:

- A. a description of the action proposed or refused by the agency;
- B. an explanation of why the agency proposes or refuses to take the action;

Date Notice Provided: _____ <i>mm/dd/yy</i>	MO STATE SAMPLE
Method of Provision: <input type="checkbox"/> Personally Presented <input type="checkbox"/> Mailed	Student's Name _____ Parent/Guardian _____
<Insert District Information> NOTICE OF ACTION In accordance with Part B of the IDEA	
Prior Written Notice must be given before our district takes certain actions.	
The following is to describe the action(s) <input type="checkbox"/> Proposed or <input type="checkbox"/> Refused by our district.	
<input type="checkbox"/> Initial evaluation <input type="checkbox"/> Reevaluation <input type="checkbox"/> Ineligibility for services <input type="checkbox"/> Change in Eligibility <input type="checkbox"/> Initial services	<input type="checkbox"/> Initial placement <input type="checkbox"/> Change of placement <input type="checkbox"/> Change of services <input type="checkbox"/> Graduation with regular diploma <input type="checkbox"/> Other: (Specify) _____
Explanation of Action: (The reason(s) for the proposal or refusal):	
	
Options Considered and Why Rejected:	
• Option(s) that was/were considered by the IEP team:	
• The reason(s) why each option was rejected:	
Basis for the Action: (A listing or attached description of each evaluation procedure, assessment, record, or report used as a basis for the action):	
Other Factors Relevant to the Action:	

The written notice sent to parents by the responsible public agency must contain the following:

- A. a description of the action proposed or refused by the agency;
- B. an explanation of why the agency proposes or refuses to take the action;
- C. a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposal or refusal;

Date Notice Provided: _____

MO STATE SAMPLE

Method of Provision: _____
 Personally Presented
 Mailed

Student's Name _____
Parent/Guardian _____

<Insert District Information>
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<input type="checkbox"/> Change in Eligibility	<input type="checkbox"/> Graduation with regular diploma
<input type="checkbox"/> Initial services	<input type="checkbox"/> Other: (Specify) _____

Explanation of Action: (The reason(s) for the proposal or refusal):

Options Considered and Why Rejected:

- Option(s) that was/were considered by the IEP team:
- The reason(s) why each option was rejected:

Basis for the Action: (A listing or attached description of each evaluation procedure, assessment, record, or report used as a basis for the action):



Other Factors Relevant to the Action:

The written notice sent to parents by the responsible public agency must contain the following:

- A. a description of the action proposed or refused by the agency;
- B. an explanation of why the agency proposes or refuses to take the action;
- C. a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposal or refusal;
- D. a statement that the parents of a child with a disability have procedural safeguards protection and the means by which a copy of the description of the procedural safeguards can be obtained;

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- C. a description of each evaluation procedure, test, record, or report the agency used on a basis for the proposal or refusal;
- D. a statement that the parents of a child with a disability have procedural safeguards protection and the means by which a copy of the description of the procedural safeguards can be obtained;
- E. sources for parents to contact to obtain assistance in understanding their procedural safeguards;

MO STATE SAMPLE

Other Factors Relevant to the Action:

Procedural Safeguards Statement

Parents of a child with a disability have protection under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA). A copy of The Procedural Safeguards Statement for Parents and Children may be obtained from <insert name and address of local district special education contact>.

If you need assistance in understanding the provisions of the procedural safeguards, you may contact <insert name, address and telephone number of local district special education contact> or the Special Education Compliance Section at the Department of Elementary and Secondary Education at (573) 751-0699 or via e-mail at webrepliespeco@dese.mo.gov.

When seeking consent for evaluation, a description of the areas to be assessed and the tests to be used [if known] must be provided with this Notice.

When parents revoke consent for services for their child, the child and his/her parents no longer have the protections provided under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA).

If you have any questions or object to this action, contact me immediately.

Name _____ Title _____ Phone Number _____

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The written notice sent to parents by the responsible public agency must contain the following:

- A. a description of the action proposed or refused by the agency;
- B. an explanation of why the agency proposes or refuses to take the action;
- C. a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposal or refusal;
- D. a statement that the parents of a child with a disability have procedural safeguards protection and the means by which a copy of the description of the procedural safeguards can be obtained;
- E. sources for parents to contact to obtain assistance in understanding their procedural safeguards;
- F. a description of other options that the IEP Team considered and the reasons why those options were rejected; and,

Date Notice Provided: _____

MO STATE SAMPLE

Method of Provision: Personally Presented Mailed

Student's Name _____
Parent/Guardian _____

<Insert District Information>
NOTICE OF ACTION
In accordance with Part B of the IDEA

Prior Written Notice must be given before our district takes certain actions.

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<input type="checkbox"/> Change in Eligibility	<input type="checkbox"/> Graduation with regular diploma
<input type="checkbox"/> Initial services	<input type="checkbox"/> Other: (Specify) _____

Explanation of Action: (The reason(s) for the proposal or refusal):

Options Considered and Why Rejected:

- Option(s) that was/were considered by the IEP team:
- The reason(s) why each option was rejected:

Basis for the Action: (A listing or attached description of each evaluation procedure, assessment, record, or report used as a basis for the action):

Other Factors Relevant to the Action:



The written notice sent to parents by the responsible public agency must contain the following:

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- B. an explanation of why the agency proposes or refuses to take the action;
- C. a description of each evaluation procedure, test, record, or report the agency used on a basis for the proposal or refusal;
- D. a statement that the parents of a child with a disability have procedural safeguards protection and the means by which a copy of the description of the procedural safeguards can be obtained;
- E. sources for parents to contact to obtain assistance in understanding their procedural safeguards;
- F. a description of other options that the IEP Team considered and the reasons why those options were rejected; and,
- G. a description of other factors that are relevant to the agency's proposal or refusal



MO STATE SAMPLE

Other Factors Relevant to the Action:

Procedural Safeguards Statement

Parents of a child with a disability have protection under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA). A copy of The Procedural Safeguards Statement for Parents and Children may be obtained from <insert name and address of local district special education contact>.

If you need assistance in understanding the provisions of the procedural safeguards, you may contact <insert name, address and telephone number of local district special education contact> or the Special Education Compliance Section at the Department of Elementary and Secondary Education at (573) 751-0699 or via e-mail at webrepliespeco@dese.mo.gov.

When seeking consent for evaluation, a description of the areas to be assessed and the tests to be used [if known] must be provided with this Notice.

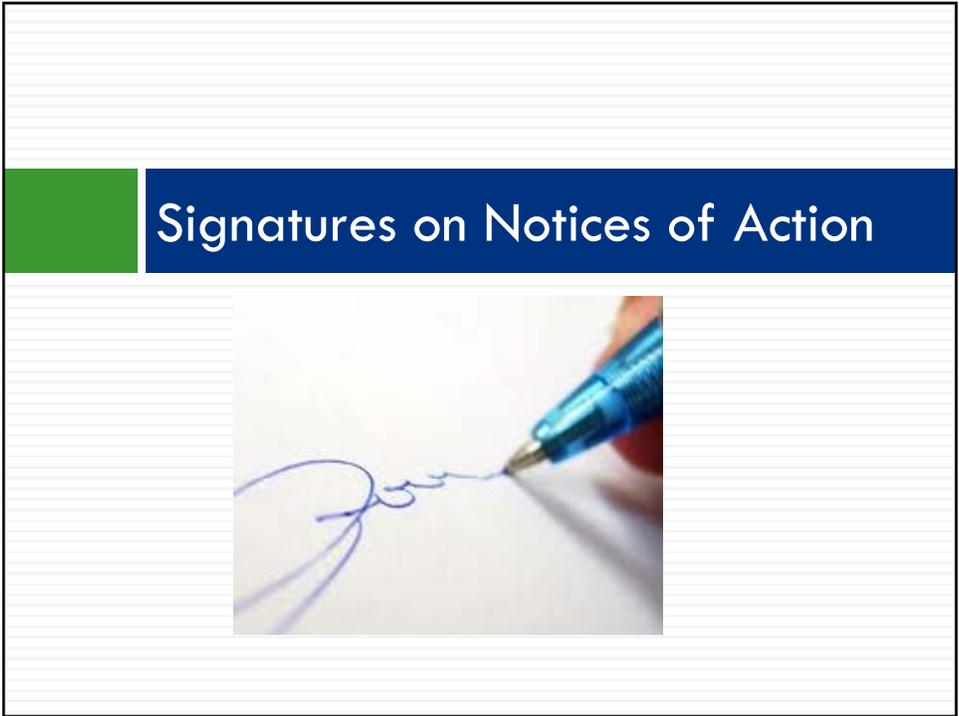
When parents revoke consent for services for their child, the child and his/her parents no longer have the protections provided under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA).

If you have any questions or object to this action, contact me immediately.

Name _____

Title _____

Phone Number _____



Consent Required for Action to be Carried Out

PARENT SIGNATURE FOR CONSENT IS REQUIRED before the following actions can be initiated:

- Initial evaluation *(with assessment)
- Initial services
- Reevaluation *(with assessment)

I understand and agree to the proposed action.

Parent/Guardian Signature

Date of Parent/Guardian Signature

Date signed consent received by public agency _____

*(A description of the areas to be assessed and the tests to be used [if known] must be provided with this Notice).

- Districts must obtain a signature in this section ONLY for the actions listed

Consent Granted for Action to be Carried Out Prior to Ten Days

I understand that the action being proposed cannot be carried out for ten days from the date of the Notice, unless I waive that time requirement.

Time requirement waived: I understand this provision and my signature below indicates that I am in agreement for the action to be carried out in less than ten days.

Parent/Guardian Signature

Date of Parent/Guardian Signature

Date received by public agency _____

- Districts get a signature in this box or document verbal waiver if the action DID NOT require a signature in the box for consent
- A signature in this box is never REQUIRED – if a parent does not sign to waive the 10-day time requirement, the action automatically takes place after those 10 days have expired unless the parent files for due process

**Changes and Actions that Trigger
Prior Written Notice**



Obvious Triggers for Prior Written Notice

- Initial evaluation or reevaluation, when additional data are needed (200.50, 200.60, 200.70, 200.355, 200.360)
- Initial services (200.1050) and initial placement (200.1120)
- Change of service(s) (200.970)
 - Change in current service minutes
 - Change in location of a service (gen ed/spec ed)
 - Addition or removal of specific service
 - Disciplinary change of placement (300.50e.)

Not So Obvious Triggers for Prior Written Notice

- Substantive change in the IEP that will affect provision of FAPE (200.970)
 - Addition of or (possibly) revision to behavior intervention plan
 - Change in course of study that will have a direct impact on student achieving post-school outcome(s)
 - Adding ESY to the IEP
 - Adding a goal in a NEW service area
 - Deleting a goal completely
 - Parent request for a specific related service such as ABA or DTT, PT, music therapy, counseling, etc.
- Parent revocation of consent for services (200.1305)

Changes and Actions that DO NOT
Trigger Prior Written Notice



Changes that DO NOT require a NOA

- Changes to the Present Level
- Changes to Special Considerations
- Changes to an existing goal
 - *Provided the change does not involve deleting an existing goal or adding a goal in a service area that did not have an existing goal*
- Changes in accommodations/modifications
- Changes related to MAP/MAP-A/EOC
- Deciding that student will not receive ESY services
 - *Unless parent has requested ESY*
- Revision of a BIP
 - *Provided the change does not focus on a completely new behavior with new consequences*

Changes that DO NOT require a NOA

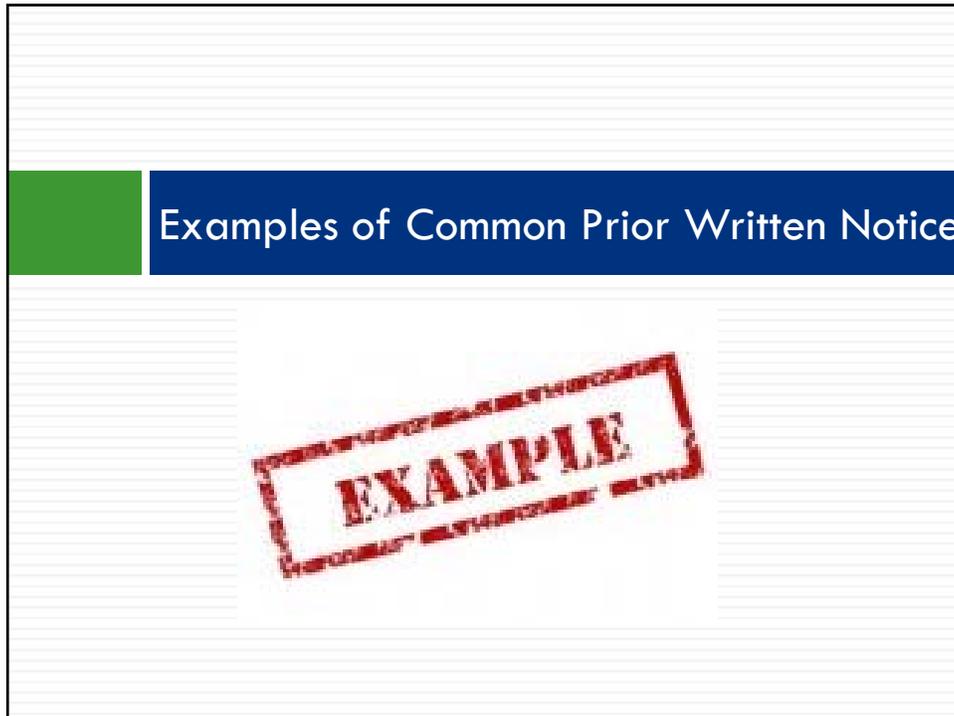
(continued)

- Collecting data to determine if the district suspects a disability prior to conducting a Review of Existing Data
- Collecting data for a Review of Existing Data
- Screening all children in a school, grade level, or class
 - Vision, hearing, academics, behavior etc.
- Assess student progress on IEP goals
- Conducting a manifestation determination, when no change in the IEP or placement occur

Changes that DO NOT require a NOA

(continued)

- Parent requests a specific “program” or methodology when a service is already being provided in that area
- Parent requests a specific staff person work with their child when a qualified person is already provided
- Parent requests a change in teacher or paraprofessional when a qualified teacher or paraprofessional is already provided



Initial Services and Placement

- Description of Action: Amy was determined eligible for special education as a student with an educational identification of Specific Learning Disability in Reading Comprehension and Written Expression on March 28, 2013. The District proposes that Amy receive the following special education services:
 - Specialized instruction in reading comprehension: 200 minutes per week in special education and
 - specialized instruction in written expression: 100 minutes per week in special education.Amy's placement will be at least 80% in general education
- Options Considered and Why Rejected: Considered not offering special education services, but this option was rejected due to Amy's need for special education due to an educational identification.
Considered offering additional service minutes, but rejected this option because the proposed service minutes constitute FAPE for Amy in the LRE .
- Basis for the action: Evaluation report dated 3/28/13, parent input, teacher input, IEP dated 3/28/13
- Other Factors Relevant to the Action: There are no other relevant factors at this time. (Could be a variety of items, though)

Change of Service Location

- **Description of Action:** The District proposes the following changes in Troy's special education services due to his performance in the special education math class:
From 225 minutes per week of specialized instruction in math calculation in the special education setting to 225 minutes per week of specialized instruction in math calculation in the general education setting. This changes Troy's educational placement from more than 80% in general education to 100% in general education.
- **Options Considered and Why Rejected:** Considered continuing with Troy's current services and placement, but rejected this option because the team determined that Troy can receive FAPE in a less restrictive environment.
- **Basis for the action:** IEP dated 5/9/12, parent and teacher report
- **Other Factors Relevant to the Action:** There are no other relevant factors at this time. (Could be a variety of items, though)

Removal of Goal

- **Description of Action:** Alex has met the math calculation goal based on data collected during the IEP cycle. The district proposes to remove the annual goal in the area of Math Calculation from Alex's 2012-2013 IEP.
- **Options Considered and Why Rejected:** The team considered continuing with the current math calculation goal, but rejected this option because Alex has met this current goal. The team also considered writing a new goal in the area of math calculation, but this was rejected because the team felt that Alex no longer requires this goal to receive FAPE.
- **Basis for the Action:** Progress monitoring of Alex's math calculation IEP goal during 2nd and 3rd quarters of 2012-13, teacher reports, parent reports
- **Other Factors Relevant to the Action:** Alex continues to qualify as a student with a Specific Learning Disability in the areas of Math Problem Solving and Math Calculation, but the team determined that the only necessary goal area at this time is in Math Problem Solving.

Disciplinary Change of Placement/Services

- **Description of Action:** The District proposes the following change to Lance's educational placement following a disciplinary action:
From 150 minutes per week of specialized instruction in math problem solving in special education and 150 minutes per week of specialized instruction in organizational skills in special education to 10 hours per week of homebound instruction beginning March 4, 2013 and ending on March 15, 2013 to enable Lance to participate in the general education curriculum and progress toward meeting his IEP goals.
- **Options Considered and Why Rejected:** Considered maintaining current educational services and placement, but rejected this option due to the need for a disciplinary change of placement. Lance was given a 10-day suspension on 2/28/13. It was determined through manifestation determination on 3/1/13 that Lance's behavior was unrelated to his disability; therefore, the District may impose the same disciplinary sanctions as it would for any non-disabled students.
- **Basis for the action:** Discipline infraction data on 12/13/12, 1/4/13, and 2/28/13, manifestation determination on 3/1/13, parent input, teacher input, current IEP dated 9/20/12
- **Other Factors Relevant to the Action:** There are no other relevant factors at this time. (Could be a variety of items, though)

Revocation of Parental Consent for Services

Description of Action: Pursuant to the parent's written revocation of consent for special education services and placement, Sam's placement will be changed to the regular education classroom 100% of the time. Sam's speech services for 60 minutes per week and reading comprehension services for 150 minutes per week will be discontinued as of September 21, 2012.

Options Considered and Why Rejected: No other options were considered due to parent's right to revoke consent for special education services.

Basis for the Action: Sam's father, Henry Jones, has provided a written revocation of consent for special education services. See attached letter.

Other Factors Relevant to the Action: When parents revoke consent for services for their child, the child and his/her parents no longer have the protections provided under the procedural safeguards of Part B of the Individuals with Disabilities Education Act (IDEA).

Consent to Evaluate

- Description of Action: The District proposes to administer additional assessments as part of an initial evaluation (or reevaluation) for special education.
- Options Considered and Why Rejected: Considered accepting screening measures and existing data as sufficient to determine eligibility, but rejected this option because this data was not thorough enough to make an eligibility determination.
- Basis for the action: Review of Existing Data (including teacher and parent reports, screening information)
- Other Factors Relevant to the Action: There are no other relevant factors at this time. (Could be a variety of items, though)

Key Points . . .

